REMARKS

Claim Amendments

Claim 1 has been amended to more particularly define the invention by specifying that the "behavior modifying amount" of omega-3 fatty acid is administered to the animal in the form of a composition comprising at least about 0.5% by weight of an omega-3 fatty acid or a mixture of omega-3 fatty acids. No new matter has been added. The amended claim is supported in the specification, for example, at page 2, lines 24-27.

Applicants have also added new claims 9-12. Support for new claim 9 can be found in the specification, for example, at page 2, lines 24-28. Claim 10 is supported, for example, at page 1, lines 7-9 of the specification. Claim 11 finds support, for example, at page 2, lines 24-28 and page 4, lines 5-10 of the specification. Upon entry of this amendment, claims 1-7 and 9-11 will be pending in the application.

Rejection Under 35 U.S.C. §102(e)

Claims 1, 2, 5, and 6 stand rejected under 35 U.S.C. §102(e) as anticipated over Davenport et al., WO 2004/006688A1. Reconsideration and withdrawal of the rejection is requested.

The present invention is directed to methods for influencing behavior in an animal. In particular, as defined in amended claim 1, the method comprises systemically administering to the animal a composition comprising at least about 0.5% by weight of an omega-3 fatty acid or mixture of omega-3 fatty acids.

Applicants respectfully submit that amended claim 1 is not anticipated by Davenport et al., WO 2004/006688A1. Davenport et al. discuss methods of moderating the behavior of a dog living in an animal shelter wherein the dog is fed a "high quality" diet and provided with periodic human interaction. Although the reference describes diets containing a "high amount" of DHA and EPA, Davenport et al. do not describe any diet containing at least about 0.5% by weight of an omega-3 fatty acid or omega-3 fatty acid mixture as required by amended claim 1.

For example, in the first paragraph on page 8 of the reference, Davenport et al. describe an embodiment containing from about 0.05% to about 0.25% by weight DHA. Likewise, the second paragraph on page 8 of the reference discusses another embodiment containing from about 0.05% to about 0.25% by weight EPA. The only discussion of a diet containing a mixture of EPA and DHA is in Example 1 of the reference wherein Diet A comprises 0.02% EPA and 0.03% DHA (i.e., 0.05% by weight total) and Diet B comprises 0.13% EPA and 0.18% DHA (i.e., 0.31% by weight total). See, Table 3 on page 14. Thus, Davenport et al. do not discuss any diet having more than 0.25% by weight of a single omega-3 fatty acid or 0.31% by weight of a mixture of omega-3 fatty acids. Accordingly, amended claim 1 requiring at least about 0.5% by weight of an omega-3 fatty acid or a mixture of omega-3 fatty acids is not anticipated by Davenport et al. Reconsideration and withdrawal of the rejection under 35 U.S.C. §102(e) is requested.

Claims 2, 5, and 6, which depend directly or indirectly from claim 1, are submitted to be patentable over Davenport et al. for the same reasons as set forth above with respect to claim 1.

Rejection Under 35 U.S.C. §103

Claims 3, 4, and 7 are rejected under 35 U.S.C. §103(a) as being obvious over Davenport et al., WO 2004/006688A1. Reconsideration and withdrawal of the rejection is requested.

Claims 3, 4, and 7 depend from claims 1 and 2, which define a method for influencing behavior in a dog or cat by systemically administering to the dog or cat a composition comprising at least about 0.5% by weight of an omega-3 fatty acid or mixture of omega-3 fatty acids. Claims 3, 4, and 7 further limit the method of the present invention by specifying the age of the dog or cat to which the composition is administered.

Applicants respectfully submit that claims 3, 4, and 7 are not obvious over Davenport et al. As noted above, Davenport et al. discuss methods of moderating the behavior of a dog living in an animal shelter wherein the dog is fed a "high quality" diet and provided with periodic human interaction. However, as described above, nothing in the reference teaches or suggests administering a composition comprising at least about 0.5% by weight of an omega-3 fatty acid

or a mixture of omega-3 fatty acids to an animal. Davenport et al. do not discuss any diets containing more than 0.25% by weight of an individual omega-3 fatty acid or 0.31% by weight of a mixture of omega-3 fatty acids.

Additionally, Davenport et al. fail to isolate any effect caused by omega-3 fatty acids from a general nutrition effect caused by administering the "high quality" diet to a sheltered dog. The "high quality" diet, Diet B, discussed in the reference was not richer in omega-3 fatty acids alone. In fact, as shown in Table 3, the "high quality" diet was richer in protein, total fat, beet pulp, DHA, EPA, and metabolizable energy as compared to the control diet, Diet A. Thus, considering the art as a whole, the cited reference may arguably be relevant to a generally nutrient-enriched diet, but the reference carries no teaching specifically relevant to an omega-3 enriched diet. Further, any reasoning focused on only the omega-3 fatty acid difference between Diet A and Diet B to formulate the obviousness rejection is an application of impermissible hindsight.

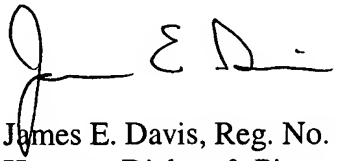
Because Davenport et al. fail to isolate any effect of omega-3 fatty acids on influencing the behavior of an animal and the reference does not discuss the administration of a diet containing at least about 0.5% by weight of an omega-3 fatty acid, Applicants respectfully submit that one skilled in the art would not be motivated by the cited reference to practice the present invention which requires administering at least about 0.5% by weight of an omega-3 fatty acid or a mixture of omega-3 fatty acids to an animal. Accordingly, it is submitted that the present invention is not obvious over Davenport et al., WO 2004/006688A1. Reconsideration and withdrawal of the rejection of claims 3, 4, and 7 under 35 U.S.C. §103(a) is requested.

Conclusion

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot by this amendment. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (314) 446-7683.

Applicants do not believe that they owe any fee in connection with the timely filing of this response. If, however, Applicants do owe any such fee(s), the Commissioner is hereby authorized to charge the fee(s) to Deposit Account No. **08-0750**. In addition, if there is ever any other fee deficiency or overpayment under 37 C.F.R. §1.16 or 1.17 in connection with this patent application, the Commissioner is hereby authorized to charge such deficiency or overpayment to Deposit Account No. **08-0750**.

Respectfully submitted,



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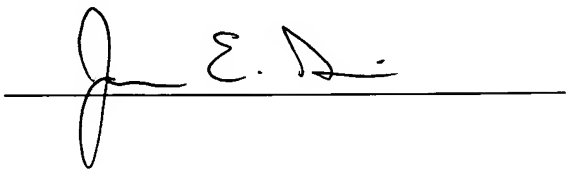
I certify that this correspondence is being deposited with the U.S. Postal Service on **March 29, 2005** with sufficient postage as first class mail (including Express Mail per MPEP §512), and addressed to **Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450**.



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